

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARC COHODES,
Plaintiff,

v.

MIMEDX GROUP, INC., et al.,
Defendants.

Case No. [22-cv-00368-RFL](#) (KAW)

**ORDER TERMINATING MAY 30, 2025
DISCOVERY LETTERS**

Re: Dkt. Nos. 208-215

On May 30, 2025, the parties filed eight discovery letters regarding proposed letters rogatory, none of which comply with the Court's standing order. (Dkt. Nos. 208-215.)

To start, each discovery letter included over 400 pages of exhibits, despite the standing order's limit to 12 pages. (*See* Judge Westmore Standing Order ¶ 14(b)(ii).) Many of the exhibits do not appear to be permissible or helpful, as they include a declaration attaching a copy of the complaint (which is already accessible from the docket), evidence produced in the case, and copies of requests for production that are not at issue in this discovery dispute. (*See* Judge Westmore Standing Order ¶ 14(b)(i).)

The discovery letter also failed to comply with the required format, which requires that each discovery request or issue be presented with all party positions. (*See* Judge Westmore Standing Order ¶ 14(d).) This is of particular note because it appears that Defendants Daniel Guy and Harrington Global Opportunities Fund, Ltd. do not object to all of the requests in the proposed letters rogatory. (*See* Dkt. No. 208 at 1; 211 at 2.) Thus, to the extent Defendants Guy and Harrington Global Opportunities Fund object on the grounds of relevance, it is unclear how they apply to each challenged request. It is not the Court's responsibility to figure out why a specific request is relevant or not. The Court further observes that Defendants only address relevance as to

Mr. Glassman and provide no specific information as to why discovery from any of the other individuals would not lead to discoverable information (instead merely pointing to their position in the first discovery letter, which only addresses Mr. Glassman). (*E.g.*, Dkt. No. 210 at 3, Dkt. No. 212 at 3.)

Finally, the first discovery letter is overlong, as it is 7 pages. (Dkt. No. 208; *see* Judge Westmore Standing Order ¶ 14(b)(i).) While the remaining letters are not overlong, that is because Defendants simply incorporate the arguments made in the first discovery letter, while Plaintiff appears to largely copy and paste his position in every letter. (*See* Dkt. No. 209 at 3; Dkt. No. 210 at 3; Dkt. No. 211 at 3-4; Dkt. No. 212 at 3; Dkt. No. 213 at 3; Dkt. No. 214 at 3; Dkt. No. 215 at 3.) The Court also notes that Defendant Snowdy also appears to mostly copy and paste the position of Defendants Guy and Harrington. (*Compare* Dkt. No. 208 at 3-5 *with* Dkt. No. 208 at 5-7.)¹

It is not a productive use of the Court's time to review non-compliant letters that are largely copy and paste jobs. Accordingly, the Court TERMINATES the discovery letters. The parties are ORDERED to file joint discovery letters that comply with the Court's standing order. If the parties require additional pages, they must request **and receive** leave prior to filing the discovery letter. If a prior letter addresses issues that are also at issue with respect to other discovery devices (*e.g.*, if the parties address standing in the first letter, and standing is at issue in the remaining letters), the parties should so state rather than repeatedly copying and pasting the same text. Similarly, if Defendant Snowdy's position is the same as that of Defendants Guy and Harrington, the discovery letters should so state rather than copying and pasting the same text. Failure to comply will result in the Court terminating the non-compliant discovery letters.

Additionally, based on a brief review of the discovery letters, Court ORDERS the parties to further meet and confer and provides the following guidance.

With respect to standing, the Court knows of no authority that prohibits a party from

¹ The Court also observes that the provided chambers copy also did not comply with the Court's standing order, such as the requirement that the chambers copy have all exhibits be individually tabbed. (*See* Judge Westmore Standing Order ¶ 5(c).) This is particularly problematic when Exhibit B is 354 pages and includes 20 exhibits, none of which were tabbed.

opposing letters rogatory. Indeed, courts in this district have regularly resolved objections raised by a party to letters rogatory. *See Largan Precision Co., Ltd. v. Motorola Mobility LLC.*, No. 21-cv-09138-JSW (DMR), 2024 U.S. Dist. LEXIS 166560 (N.D. Cal. Sep. 16, 2024); *Serenity Invs. LLC v. Sun Hung Kai Strategic Capital Ltd.*, No. 22-cv-01623-YGR (LJC), 2024 U.S. Dist. LEXIS 42528, at *3 (N.D. Cal. Mar. 11, 2024). As Defendants correctly note, courts in this district “have held that motions requesting issuance of a letter of request or letter rogatory should generally be granted and that the opposing party must show good reason for a court to deny an application for a letter rogatory.” *See Zoho Corp. PVT. Ltd v. Freshworks, Inc.*, No. 20-cv-01869-VC (TSH), 2021 U.S. Dist. LEXIS 124432, at *7 (N.D. Cal. July 2, 2021) (listing cases).

With respect to hearsay, this issue appears premature as discovery is not limited to admissible evidence. Rather, discovery must be reasonably calculated to lead to the discovery of admissible evidence. There is no showing that the evidence being sought here would never be admissible (*i.e.*, per a hearsay exception) or would never lead to other admissible evidence.

With respect to relevance, again, it is not apparent that no discovery would be permitted; the fact that an individual may ultimately not have certain evidence does not mean all discovery will be prohibited. That said, as to overbreadth and proportionality, Defendants argue that the requests do not include limits on date, topic, or relevance. Indeed, the Court notes that the discovery requests include requests for “All documents” concerning a particular individual, which could reach far beyond this case. If Plaintiff does not believe any such limitations are appropriate, Plaintiff should be prepared to explain why, for example, such requests should not be limited to at least the events relevant to this litigation.

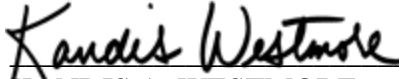
Regarding privilege, Defendants will need to explain how the relied upon privileges apply in this case. For example, Defendants appear to suggest that attorney-client and work product privilege may apply but do not demonstrate that Defendants are attorneys, or the work was done on the direction of an attorney. Likewise, while Defendants discuss California’s litigation privilege (which the presiding judge found applicable in dismissing Plaintiff’s defamation and false light claims per the anti-SLAPP statute), it is unclear how that applies to prohibit discovery regarding claims that are still at issue in this case.

1 Regarding the Fifth Amendment, Defendants will need to explain how Defendants' Fifth
2 Amendment's right against self-incrimination prohibits discovery from third parties.

3 Finally, the Court notes that to the extent the letters rogatory process is expected to go past
4 the fact discovery cutoff, the Court cannot extend the fact discovery cutoff. Rather, the parties
5 must address this issue to the presiding judge.

6 IT IS SO ORDERED.

7 Dated: June 4, 2025

8 
9 KANDIS A. WESTMORE
United States Magistrate Judge